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TITLE II: LIMITATIONS ON INTELLIGENCE ACTIVITIES

PART A: GENERAL PROVISIONS

STATEMENT OF PURPOSE

Sec. 201. It is the purpose of this title -

(a) to provide statutory authorization for the conduct of intelligence activities that concern United States persons or are performed within the United States and that are necessary for the conduct of the foreign relations or the protection of the national security of the United States;

(b) to establish statutory standards for United States intelligence activities and effective means to ensure that such activities are conducted in accordance with the Constitution and laws of the United States; and

(c) to delineate the responsibilities of government officials for ensuring that the intelligence activities of the United States are conducted in accordance with the Constitution and laws of the United States.

DEFINITIONS

Sec. 202. (a) The definitions in Title I of this Act shall apply to this title. References to law within this title are to the laws of the United States.

(b) As used in this title -

(1) the term "collecting agency" means, with respect to information, the department or agency that collects the information.

(2) the term "directed collection" means obtaining information that concerns a United States person by requesting or directing any person to acquire such information through exploiting or developing a relationship with a United States person without disclosing that the information will be conveyed to an intelligence entity. This term does not include placing of employees under Sections 215 and 220.

(3) the term "employee" means a person employed by, assigned to or acting for an entity of the intelligence community.

(4) the term "essential foreign intelligence" means foreign intelligence that has been determined by the National Security Council or a committee designated by the National Security Council to be essential to the conduct of the foreign relations or to the protection of the national security of the United States.

(5) the term "extraordinary technique" means foreign electronic surveillance, foreign physical search and other techniques for which a warrant would be required if undertaken for law enforcement purposes in the United States.

(6) the term "foreign electronic surveillance" means interception by electronic means of the wire, oral, or radio communications of a particular, known United States person who is outside the United States with the intention

of acquiring the communications of that person, or use of an electronic or mechanical surveillance device to monitor the activities of a particular, known United States person who is outside the United States, in circumstances in which a warrant would be required if undertaken for law enforcement purposes in the United States, but does not include electronic surveillance as defined in the Foreign Intelligence Search and Surveillance Act, \_\_\_\_ Stat. \_\_\_\_.

(7) the term "foreign physical search" means any search directed against a United States person who is outside the United States or against the property of a United States person that is located outside the United States and any opening of mail outside the United States and outside United States postal channels of a known United States person under circumstances in which a warrant would be required if undertaken for law enforcement purposes in the United States.

(8) the term "foreign power" means -

(A) a foreign government or any component thereof, whether or not recognized by the United States;

(B) a faction of a foreign nation or nations not substantially composed of United States persons;

(C) an entity that is openly acknowledged by a foreign government or governments or known to be directed and controlled by such foreign government or governments;

(D) a group engaged in international terrorism or activities in preparation therefor;

(E) a foreign based political organization, not substantially composed of United States persons.

(9) the term "important foreign intelligence" means foreign intelligence that has been determined by the National Security Council or a committee designated by the National Security Council to be important to the conduct of the foreign relations or the protection of the national security of the United States.

(10) the term "mail cover" means systematic and deliberate inspection and recording of information appearing on the exterior of envelopes in the mails.

(11) the term "minimization procedures" means procedures promulgated by the head of an entity of the intelligence community in consultation with the Director of National Intelligence and approved by the Attorney General --

(A) that are reasonably designed in light of the purpose of the particular technique to minimize the acquisition and retention and to prohibit the dissemination of nonpublicly available information concerning unconsenting United States persons, consistent with the need of the United States to obtain, produce and disseminate intelligence; and

(B) under which information that is not publicly available may be disseminated in a manner that

identifies a United States person, without such person's consent, only if such person's identity is necessary to understand intelligence or to assess its importance, provided that information that is evidence of a crime may be disseminated for the purpose of preventing a crime or enforcing the criminal law.

(12) the term "physical surveillance" means unconsented, systematic and deliberate observation of a person by any means on a continuing basis, or unconsented acquisition of a nonpublic communication by a person not a party thereto or visibly present thereat, through any means not involving electronic surveillance.

PART B: AUTHORITY TO COLLECT, RETAIN AND  
DISSEMINATE INFORMATION THAT CONCERNS UNITED STATES PERSONS

Subpart 1: General Authority

Sec. 211. (a) Information may be collected concerning any United States person, and may be retained and disseminated, by an entity of the intelligence community for any foreign intelligence, counterintelligence or counterterrorism intelligence purpose, or in connection with any special activity, or other authorized function, but only in accordance with this part and only to fulfill a lawful function of that entity.

(b) Information concerning any United States person may be collected by an entity of the intelligence



community using any collection technique, and may be retained and disseminated, with the consent of that person.

(c) Publicly available information concerning any United States person may be collected by an entity of the intelligence community when such information is relevant to an authorized function of that entity, and may be retained and disseminated.

(d) Activities to collect information that are directed against a United States person by an entity of the intelligence community shall be conducted by the least intrusive means available that in the judgment of the collecting agency will acquire intelligence of the nature, reliability and timeliness that is required.

(e) Nothing in this title shall prohibit any entity of the intelligence community from retaining and disseminating information concerning any United States person if the information does not identify that person.

(f) Nothing in this title shall prohibit, limit or otherwise affect the functions of any department or agency that are not intelligence activities, other than activities undertaken by entities of the intelligence community to provide personnel, document, communications or physical security.

(g) Nothing in this title shall affect any activity undertaken by any entity of the intelligence community

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as an active or passive measure intended to protect the security of its personnel, installations, activities, equipment or classified information by use of security guards, access controls, requirements for identification credentials, or inspection of material carried by persons entering or leaving its installations.

(h) Nothing in this title shall be construed to prohibit voluntary provision of information to an entity of the intelligence community by any person not employed by or assigned to that entity.

Subpart 2: Authority To Collect Foreign  
Intelligence Concerning United States Persons

GENERAL AUTHORITY TO COLLECT FOREIGN INTELLIGENCE

Sec. 213. The entities of the intelligence community are authorized to collect foreign intelligence that concerns United States persons. Such foreign intelligence may be collected without the consent of the United States person concerned provided that --

(a) collection is conducted to fulfill a lawful function of the intelligence entity;

(b) collection involving use of extraordinary and other specified techniques is conducted only in accordance with this part; and

(c) collection involving these and any other techniques is conducted only pursuant to procedures promulgated by the heads of the intelligence entities and

approved by the Attorney General. The heads of the intelligence entities shall make such procedures available promptly after promulgation to the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence.

COLLECTION OF FOREIGN INTELLIGENCE THROUGH USE OF  
EXTRAORDINARY TECHNIQUES OUTSIDE THE UNITED STATES

Sec. 214. (a) No entity of the intelligence community may use extraordinary techniques directed against a United States person outside the United States to collect foreign intelligence except pursuant to court order.

(b) Applications for an order from the court established pursuant to Section 103(a) of the Foreign Intelligence Search and Surveillance Act, \_\_\_\_ Stat. \_\_\_\_, are authorized and, notwithstanding any other law, a judge to whom an application is made pursuant to this section may grant an order approving use of an extraordinary technique directed against a United States person to collect foreign intelligence.

(c) An order approving use of extraordinary techniques pursuant to this section shall be granted if the court finds that --

(1) a senior official designated by the President has certified that the information sought is essential foreign intelligence and that it is likely to be obtained as a result of proposed use of an extraordinary technique against a United States person;

(2) there is probable cause to believe the United States person against whom the extraordinary technique is to be directed is in possession of, or, with respect to foreign electronic surveillance, is about to receive, the information sought;

(3) less intrusive means cannot reasonably be expected to acquire intelligence of the nature, reliability and timeliness that is required;

(4) the proposed minimization procedures meet the definition of such procedures under Section 203(b)(11) of this title.

(d) The order of the court approving such use of an extraordinary technique shall be in writing and shall --

(1) specify the identity or description of the United States person against whom the extraordinary technique is to be directed;

(2) specify the nature and location of the property, communications or activity to be the subject of the use of extraordinary techniques and state whether physical entry may be involved;

(3) specify a reasonable period, not to exceed 90 days, during which the use of an extraordinary technique is authorized, provided that no order shall authorize more than one unconsented entry into real property except for

entries to install, repair, or remove surveillance devices;  
and

(4) direct that minimization procedures be followed.

(e) Extensions of an order issued under this section may be granted on the same basis as an original order upon an application for an extension and new findings made in the same manner as required for an initial order.

(f) Use of extraordinary techniques by military components directed against United States persons who are subject to the Uniform Code of Military Justice, 10 U.S.C. 802, Art. 2, (1) through (10), may be authorized pursuant to an order issued in conformance with subsections (c) (d) and (e) of this section by a military judge appointed under the Uniform Code of Military Justice.

(g) The procedural, administrative, and security provisions established under the Foreign Intelligence Search and Surveillance Act, \_\_\_\_ Stat. \_\_\_\_, shall be observed by a court or military judge considering applications for use of extraordinary techniques under this section.

(h) The court of review established pursuant to section 103(b) of the Foreign Intelligence Search and Surveillance Act, \_\_\_\_ Stat. \_\_\_\_, shall have jurisdiction to hear appeals from decisions with respect to applications for use of extraordinary techniques under this section. Decisions of the court of review shall be subject to review by

the Supreme Court of the United States as provided in that Act.

COLLECTION OF FOREIGN INTELLIGENCE THROUGH  
PLACING EMPLOYEES IN UNITED STATES ORGANIZATIONS

Sec. 215. (a) No entity of the intelligence community may place employees in an organization in the United States or substantially composed of United States persons, without disclosure of the employee's intelligence affiliation, for the purpose of collecting foreign intelligence except as authorized by the Attorney General.

(b) The Attorney General may authorize such activities of employees based on a finding that --

(1) a senior official designated by the President has certified that the information sought is essential foreign intelligence;

(2) there is probable cause to believe that information of this character is likely to be acquired through the proposed activity;

(3) less intrusive means cannot acquire intelligence of the nature, reliability and timeliness that is required;

(4) the proposed minimization procedures meet the definition of such procedures under Section 203(b)(11) of this title;

(5) the period of time during which the activity is to continue is reasonable and no longer than 90 days; and

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(6) the activity is not undertaken to interfere with political activities engaged in or views expressed by any United States person, the exercise of the right to petition the government, or the exercise of any other right protected by the Constitution or laws of the United States.

(c) The Attorney General's authorization shall be in writing and shall --

(1) specify the identity or description of the organization or its members concerning which information is intended to be collected;

(2) specify the period during which the activity is authorized;

(3) direct that minimization procedures be followed; and

(4) specifically ensure that such activity is strictly limited and carefully controlled so as to protect constitutional and legal rights.

(d) The Attorney General may grant extensions of an authorization issued under this section on the same basis as an original authorization upon application for an extension and new findings made in the same manner as required for an initial authorization.

(e) Within the United States, the placing of employees in United States organizations for the purpose of collecting foreign intelligence without disclosure of the employee's

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intelligence affiliation may be conducted only by the Federal Bureau of Investigation, or by military components when directed against persons subject to the Uniform Code of Military Justice, 10 U.S.C. 802, Art. 2, (1) through (10).

(f) Nothing in this section shall restrict attendance by employees at meetings of organizations that are open to attendance by United States Government employees acting in their official capacities, or the collection of foreign intelligence at any such meetings.

(g) Nothing in this section is intended to restrict participation by employees in any organization without disclosure of their intelligence affiliation where such participation is necessary to establish, enhance, or maintain cover, or to recommend or assist in the recruitment of employees or sources of information or operational assistance.

COLLECTION OF FOREIGN INTELLIGENCE  
THROUGH OTHER TECHNIQUES

Section 216. No entity of the intelligence community may collect foreign intelligence through the use against a United States person of mail covers, physical surveillance, or directed collection unless an official designated by the head of the entity has determined that the information sought and likely to be obtained through the use of those techniques constitutes important foreign intelligence that cannot reasonably be acquired by use of less intrusive



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means. Within the United States, these techniques may be directed against a United States person for the purpose of collecting foreign intelligence only by the Federal Bureau of Investigation, or by military components when directed against persons subject to the Uniform Code of Military Justice, 10 U.S.C. 802, Art. 2 (1) through (10).

MINIMIZATION OF INCIDENTIALLY ACQUIRED INFORMATION  
THAT CONCERNS UNITED STATES PERSONS

Sec. 217. Any information concerning United States persons that is obtained by any entity of the intelligence community through interception by electronic means of any wire, oral, or radio communications must be treated in accordance with minimization procedures.

Subpart 3: Authority to Collect Counterintelligence  
and Counterterrorism Intelligence

GENERAL AUTHORITY TO COLLECT COUNTERINTELLIGENCE  
AND COUNTERTERRORISM INTELLIGENCE

Sec. 218. (a) The entities of the intelligence community are authorized to collect counterintelligence and counterterrorism intelligence that concerns United States persons. Such intelligence may be collected without the consent of the United States person concerned provided that --

(1) facts and circumstances indicate that the person is or may be engaged in clandestine intelligence activities on behalf of a foreign power or international terrorist activity;

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(2) collection is conducted to fulfill a lawful function of the intelligence entity; and

(3) collection involving use of extraordinary techniques and other specified techniques is conducted only in accordance with this subpart.

COLLECTION OF COUNTERINTELLIGENCE OR COUNTERTERRORISM  
INTELLIGENCE THROUGH USE OF EXTRAORDINARY TECHNIQUES  
OUTSIDE THE UNITED STATES

Sec. 219. (a) No entity of the intelligence community may use extraordinary techniques directed against a United States person outside the United States to collect counter-intelligence or counterterrorism intelligence except pursuant to court order.

(b) Applications for an order from the court established pursuant to Section 103(a) of the Foreign Intelligence Search and Surveillance Act, \_\_\_\_\_ Stat. \_\_\_\_\_, are authorized and, notwithstanding any other law, a judge to whom an application is made pursuant to this section may grant an order approving use of an extraordinary technique directed against a United States person to collect counter-intelligence or counterterrorism intelligence.

(c) An order approving use of extraordinary techniques pursuant to this section shall be granted if the court finds that --

(1) there is probable cause to believe that the person is or may be engaged in clandestine intelligence

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activity on behalf of a foreign power or international terrorist activity;

(2) significant counterintelligence or counter-terrorism intelligence is likely to be obtained from use of the extraordinary technique;

(3) less intrusive means cannot reasonably be expected to acquire intelligence of the nature, reliability and timeliness that is required; and

(4) the proposed minimization procedures meet the definition of such procedures under Section 203(b)(11) of this title.

(d) The requirements of Section 214(d), (e), (f), (g) and (h) are applicable to the use of extraordinary techniques to collect counterintelligence or counter-terrorism intelligence.

COLLECTION OF COUNTERINTELLIGENCE OR COUNTER-  
TERRORISM INTELLIGENCE THROUGH PLACING  
EMPLOYEES IN UNITED STATES ORGANIZATIONS

Sec. 220. (a) No entity of the intelligence community may place employees in an organization in the United States or substantially composed of United States persons, without disclosure of the employee's intelligence affiliation, for the purpose of collecting counterintelligence or counter-terrorism intelligence except as authorized by this section.

(b) Such participation in organizations may be conducted only pursuant to written procedures promulgated

by the head of the entity of the intelligence community.

Such procedures shall --

- (1) limit such participation to that necessary to achieve the lawful objectives of the entity;
- (2) ensure that such participation serves significant intelligence objectives;
- (3) limit the scope, intensity and duration of such participation to that appropriate to the objective;
- (4) provide for written approval of participation and periodic review by a senior official of the entity;
- (5) create independent means for audit and inspection of such participation;
- (6) prevent interference with the exercise of rights protected by the Constitution or laws of the United States;
- (7) prevent interference in political activities engaged in or views expressed by a United States person; and
- (8) ensure that minimization procedures are followed where appropriate.

(c) Procedures prepared pursuant to subsection (b) shall be reviewed by the Attorney General and may not be put into effect without the approval of the Attorney General

COLLECTION OF COUNTERINTELLIGENCE OR COUNTERTERRORISM  
INTELLIGENCE THROUGH OTHER TECHNIQUES

Sec. 221. Entities of the intelligence community may collect counterintelligence or counterterrorism intelligence

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through the use against a United States person of mail covers, physical surveillance, or directed collection under procedures promulgated by the head of the entity and approved by the Attorney General. Such procedures shall provide for review of counterintelligence or counter-terrorism intelligence investigations utilizing any such technique not less than once a year by a senior official of the intelligence entity under the standard set out in Section 218. The heads of intelligence entities shall make such procedures available promptly after promulgation to the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence.

Subpart 4: Authority to Collect Other Information  
for Intelligence Purposes.

AUTHORITY TO COLLECT INFORMATION CONCERNING  
POTENTIAL SOURCES OF INTELLIGENCE OR  
OPERATIONAL ASSISTANCE

Sec. 222. The entities of the intelligence community are authorized to collect information concerning United States persons who are potential sources of intelligence or operational assistance under procedures promulgated by the head of the entity and approved by the Attorney General. Such procedures shall limit the scope, intensity and duration of such collection to that required to determine the suitability or credibility of the potential source. Extraordinary techniques may not be used for collection under this section.

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AUTHORITY TO COLLECT INFORMATION FOR  
SECURITY PURPOSES

Sec. 223. The entities of the intelligence community are authorized to collect information concerning United States persons for the purpose of providing for the personnel security or the physical security of intelligence activities under procedures promulgated by the head of the entity and approved by the Attorney General. Such procedures shall limit the scope, intensity and duration of such collection to that required to determine the suitability or trustworthiness of employees, contractors, or applicants for employment or for access to classified information; to protect against breaches of security regulations or contractual obligations by employees or former employees; and to protect against direct or imminent threats to the physical safety of personnel, installations, property, documents or other materials related to intelligence activities. Such procedures shall govern the categories of persons who may be the subjects of such investigations by particular agencies. Extraordinary techniques may not be used for collection under this section.

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Subpart 5: Emergency and Other Provisions

EMERGENCY PROCEDURES

Sec. 224. (a) Extraordinary techniques may be directed against a United States person outside the United States without a court order for a period not longer than 72 hours, provided that the head of the entity of the intelligence community or the senior agency official or the senior military officer in the country in which the extraordinary technique is to be used approves its use and determines that --

(1) an emergency situation exists such that essential foreign intelligence or significant counter-intelligence or counterterrorism intelligence is likely to be lost before a court order under Section 214 or Section 219 could be obtained with due diligence; and

(2) the requirements of Section 214(c)(2) through (4) or the requirements of Section 219(c) are met.

(b) An application for a court order shall be made within 72 hours of the initiation of the use of the extraordinary technique.

(c) The use of an extraordinary technique under this section shall be terminated when the information sought is obtained; when the application for a court order is denied; or upon the expiration of the 72-hour period without issuance of a court order, whichever occurs first.

(d) Information concerning a United States person obtained through use of an extraordinary technique before an application for a court order is granted or denied shall be treated in accordance with the minimization procedures set forth in the application for a court order and shall be treated in accordance with Section 226 if the application for a court order is denied.

#### COOPERATIVE ARRANGEMENTS

Sec. 225. (a) Notwithstanding the provisions of this title, no agency, federal officer or employee may be required to confirm or deny to a court the existence of any cooperative or liaison relationship that any agency of the United States Government may have with any foreign government or component thereof; to identify to a court any particulars of such cooperative or liaison relationship; or to reveal to a court in any manner whether any information used in support of an application under Section 214 or Section 219 was obtained directly or indirectly from such a foreign government or component thereof or whether any foreign government or component thereof may participate in the proposed use of an extraordinary technique.

(b) In any case in which it is determined by the Attorney General that a finding under Section 214(c)(2) or Section 219(c)(1) or (2) would require the disclosure of information protected by subsection (a) of this section, the



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Attorney General may submit a certification to the court that the finding required by Section 214(c)(2) or Section 219(c)(1) or (2) has been made by the Attorney General based upon information protected by subsection (a) of this section. The court shall substitute the Attorney General's certification for the finding required by Section 214(c)(2) or Section 219(c)(1) or (2) in considering the application for an order.

DESTRUCTION OF INFORMATION  
COLLECTED ILLEGALLY

Sec. 226. Information concerning a United States person collected by a means or in a manner prohibited by this Title shall be destroyed as soon as feasible after recognition and may not be disseminated unless the head of the collecting agency or a designee determines that the information --

(1) should be retained for purposes of oversight, accountability or redress;

(2) evidences danger to the physical safety of any person and dissemination is limited to that necessary to protect against such danger; or

(3) is relevant to any administrative, civil or criminal proceeding of which the collecting agency has prior notice and dissemination is limited to that necessary for such proceeding.

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PART C: SPECIAL ACTIVITIES

AUTHORIZATION FOR SPECIAL ACTIVITIES

Sec. 231. (a) Special activities may be conducted only by the Central Intelligence Agency, except that, when military activities are involved or during a period of hostilities, special activities may be conducted by the Department of Defense, and, in unusual circumstances when the President determines that the intended United States objective is more likely to be achieved, special activities may be conducted by another department or agency.

(b) Support for any special activity may be provided by any department or agency if the authority approving the activity determines that the intended United States objective is not likely to be achieved without such support.

APPROVAL FOR SPECIAL ACTIVITIES

Sec. 232. Special activities shall be reviewed and approved only as follows:

(a) Any special activity that involves substantial resources or risks may be conducted only after approval by the President. Such approval shall be based upon a finding by the President that the special activity is important to the national security of the United States and shall be preceded by a review by the National Security Council or a committee of the Council designated by the President for that purpose.

(b) Authority may be delegated by the President to a committee of the National Security Council to approve any category or type of special activity that does not involve substantial risks or resources. Such approval shall be based on a finding by that committee that the special activity will further the national security of the United States.

(c) Presidential approval shall be required, based upon a finding under subsection (a), of any special activity of a category or type that could be approved under subsection (b) but as to which any member of the committee of the Council withholds approval on the basis that the activity involves substantial resources or risks.

(d) Authority may be delegated by the President to the Secretary of Defense to approve any special activity conducted by the Armed Forces of the United States that relates to existing or imminent hostilities involving the Armed Forces of the United States.

#### CONGRESSIONAL NOTIFICATION

Sec. 233. The President shall notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate on a timely basis of the facts and circumstances of any approved special activity. This section shall not be construed to require the approval of either committee prior to the initiation of any special activity.

## PROHIBITION ON ASSASSINATION

Sec. 234. No person employed by or acting on behalf of the United States Government shall engage or conspire to engage in assassination.

## REPEALER

Sec. 235. Section 2422 of Title 22, United States Code, is repealed.

## Part D: PRESIDENTIAL WAIVER OF RESTRICTIONS

Sec. 241. (a) The President may waive any or all of the restrictions on intelligence activities set forth in this title during any period --

(1) in which the United States is engaged in war declared by Act of Congress; or

(2) covered by a report from the President to the Congress under the War Powers Resolution, 87 Stat. 555, to the extent necessary to carry out the activity that is the subject of the report.

(b) When the President utilizes the waiver authority under this section, the President shall notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate in a timely manner and inform those committees of the facts and circumstances requiring the waiver.

## PART E: ACTIVITIES UNDERTAKEN INDIRECTLY

Sec. 251. No entity of the intelligence community and no employee of an entity of the intelligence community may

request or otherwise knowingly encourage, directly or indirectly, an individual, organization, or foreign government to engage in any activity on behalf of the United States Government in which such entity of the intelligence community is prohibited by this title from engaging; provided however that this restriction shall not prohibit any entity of the intelligence community from requesting a department or agency of the United States Government to engage in an activity that is within the authorized functions of the department or agency to which the request is made.

PART F: REMEDIES

TITLE III: PHYSICAL SEARCHES WITHIN  
THE UNITED STATES

AMENDMENT OF THE FOREIGN INTELLIGENCE  
SURVEILLANCE ACT

Sec. 301. The Foreign Intelligence Surveillance Act of 1978, \_\_\_ Stat. \_\_\_, is amended as follows [indicated by underscoring]:

To authorize searches and surveillance to obtain foreign intelligence information.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Intelligence Search and Surveillance Act".

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TITLE I--PHYSICAL SEARCH AND ELECTRONIC SURVEILLANCE WITHIN  
THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES

Definitions

Sec. 101. As used in this title:

(a) "Foreign power" means--

(1) a foreign government or any component thereof, whether or not recognized by the United States;

(2) a faction of a foreign nation or nations, not substantially composed of United States persons;

(3) an entity that is openly acknowledged by a foreign government or governments to be directed and controlled by such foreign government or governments;

(4) a group engaged in international terrorism or activities in preparation therefor;

(5) a foreign-based political organization, not substantially composed of United States persons; or

(6) an entity that is directed and controlled by a foreign government or governments.

(b) "Agent of a foreign power" means--

(1) any person other than a United States person, who--

(A) acts in the United States as an officer or employee of a foreign power, or as a member of a foreign power as defined in subsection (a)(4);

(B) acts for or on behalf of a foreign power which engages in clandestine intelligence activities in the United States contrary to the interests of the United States, when the circumstances of such person's presence in the United States indicate that such person may engage in such activities in the United States, or when such person knowingly aids or abets any person in the conduct of such activities or knowingly conspires with any person to engage in such activities; or

(2) any person who--

(A) knowingly engages in clandestine intelligence gathering activities for or on behalf of a foreign power, which activities involve or may involve a violation of the criminal statutes of the United States;

(B) pursuant to the direction of an intelligence service or network of a foreign power, knowingly engages in any other clandestine intelligence activities for or on behalf of such foreign power, which activities involve or are about to involve a violation of the criminal statutes of the United States;

(C) knowingly engages in sabotage or international terrorism, or activities that are in preparation therefor, for or on behalf of a foreign power; or

(D) knowingly aids or abets any person in the conduct of activities described in subparagraph (A), (B), or (C) or knowingly conspires with any person to engage in activities described in subparagraph (A), (B), or (C).

(c) "International terrorism" means activities that--

(1) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or any State;

(2) appear to be intended--

(A) to intimidate or coerce a civilian population;

(B) to influence the policy of a government by intimidation or coercion; or

(C) to affect the conduct of a government by assassination or kidnapping; and

(3) occur totally outside the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or



the locale in which their perpetrators operate or seek asylum.

(d) "Sabotage" means activities that involve a violation of chapter 105 of title 18, United States Code, or that would involve such a violation if committed against the United States.

(e) "Foreign intelligence information" means--

(1) information that relates to, and if concerning a United States person is necessary to, the ability of the United States to protect against--

(A) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

(B) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

(C) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

(2) information with respect to a foreign power or foreign territory that relates to, and if concerning a United States person is necessary to--

(A) the national defense or the security of the United States; or

(B) the conduct of the foreign affairs of the United States.

(f) "Electronic surveillance" means--

(1) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire or radio communication sent by or intended to be received by a particular, known United States person who is in the United States, if the contents are acquired by intentionally targeting that United States person, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes;

(2) the acquisition by an electronic, mechanical, or other surveillance device of the contents of

any wire communication to or from a person in the United States, without the consent of any party thereto, if such acquisition occurs in the United States;

(3) the intentional acquisition by an electronic, mechanical, or other surveillance device of the contents of any radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, and if both the sender and all intended recipients are located within the United States; or

(4) the installation or use of an electronic, mechanical, or other surveillance device in the United States for monitoring to acquire information, other than from a wire or radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes.

(g) "Attorney General" means the Attorney General of the United States (or Acting Attorney General) or the Deputy Attorney General.

(h) "Minimization procedures" ~~with-respect-to~~  
~~electronic-surveillance~~ means--

(1) specific procedures, which shall be adopted by the Attorney General, that are reasonably designed in light of the purpose and technique of the particular search or surveillance, to minimize the acquisition and retention, and prohibit the dissemination, of nonpublicly available information concerning unconsenting United States persons acquired as a result of such search or surveillance consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information;

(2) procedures that require that nonpublicly available information acquired as a result of such search or surveillance which is not foreign intelligence information, as defined in subsection (c)(1), shall not be disseminated in a manner that identifies any United States person, without such person's consent, unless such person's identity is necessary to understand foreign intelligence information or assess its importance;

(3) notwithstanding paragraphs (1) and (2), procedures that allow for the retention and dissemination of information acquired as a result of such search or surveillance that is evidence of a crime which has been, is being, or is about to be committed and that is to be retained or disseminated for law enforcement purposes; and

(4) notwithstanding paragraphs (1), (2), and (3), with respect to any physical search or electronic surveillance approved pursuant to section 102(a), procedures that require that, for a physical search, no information that concerns a United States person, and for a surveillance, no contents of any communication to which a United States person is a party, shall be disclosed, disseminated, or used for any purpose or retained for longer than twenty-four hours unless a court order under section 105 is obtained or unless the Attorney General determines that the information indicates a threat of death or serious bodily harm to any person.

(i) "United States person" means a citizen of the United States, an alien lawfully admitted for permanent residence (as defined in Section 101(a)(20) of the Immigration and Nationality Act), an unincorporated association a substantial number of members of which are citizens of the United States or aliens lawfully admitted for permanent resident, or a corporation which is incorporated in the United States, but does not include a corporation or an association which is a foreign power as defined in subsection (a)(1), (2), or (3).

(j) "United States", when used in a geographic sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

(k) "Aggrieved person" means a person who is the target of physical search or electronic surveillance or any other person whose communications or activities were subject to physical search or electronic surveillance.

(l) "Wire communication" means any communication while it is being carried by a wire, cable, or other like connection furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the

transmission of interstate or foreign communications.

(m) "Person" means any individual, including any officer or employee of the Federal Government, or any group, entity, association, corporation, or foreign power.

(n) "Contents", when used with respect to a communication, includes any information concerning the identity of the parties to such communication or the existence, substance, purport, or meaning of that communication.

(o) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

(p) "Physical search" means any search in the United States and any opening of mail in United States postal channels, under circumstances in which a warrant would be required if undertaken for law enforcement purposes.

AUTHORIZATION FOR PHYSICAL SEARCH AND ELECTRONIC SURVEILLANCE FOR FOREIGN INTELLIGENCE PURPOSES

Sec. 102. (a)(1) Notwithstanding any other law, the President, through the Attorney General, may authorize physical search or electronic surveillance without a court order under this title to acquire foreign intelligence information for periods of up to one year if the Attorney General certifies in writing under oath that--

(A) the the physical search is directed solely at property or premises under the open and exclusive control of a foreign power, as defined in section 101(a)(1)(2) or (3), and no property of a known United States person may be seized.

(B) the electronic surveillance is solely directed at--

(i) the acquisition of the contents of communications transmitted by means of communications used exclusively between or among foreign powers, as defined in section 101(a)(1), (2), or (3); or

(ii) the acquisition of technical intelligence, other than the spoken communications of individuals, from property or premises under the open and exclusive control of a foreign power, as defined in section 101(a)(1), (2) or (3);

(C) there is no substantial likelihood that the search will involve the property of a United States person or the surveillance will acquire the contents of any communication to which a United States person is a party; and

(D) the proposed minimization procedures with respect to such search or surveillance meet the definition of minimization procedures under section 101(h); and

if the Attorney General reports such minimization procedures and any changes thereto to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence at least thirty days prior to their effective date, unless the Attorney General determines immediate action is required and notifies the committees immediately of such minimization procedures and the reason for their becoming effective immediately.

(2) A physical search or electronic surveillance authorized by this subsection may be conducted only in accordance with the Attorney General's certification and the minimization procedures adopted by him. The Attorney General shall assess compliance with such procedures and shall report such assessments to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence under the provisions of section 108(a).

(3) The Attorney General shall immediately transmit under seal to the court established under section 103(a) a copy of his certification. Such certification shall be maintained under security measures established by the Chief Justice with the concurrence of the Attorney General, in consultation with the Director of Central Intelligence, and shall remain sealed unless--

(A) an application for a court order with respect to the surveillance is made under sections 101(h) (4) and 104; or

(B) the certification is necessary to determine the legality of the search or surveillance under section 106(f).

(4) With respect to physical search or electronic surveillance authorized by this subsection, the Attorney General may direct a specified communication or other common carrier, landlord, custodian, or other person to--

(A) furnish all information, facilities, or technical assistance necessary to accomplish the physical search or electronic surveillance in such a manner as will protect its secrecy and produce a minimum of interference with the services that such carrier, landlord, custodian, or other person is providing its customers; and

(B) maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the search or surveillance or the aid furnished with such carrier, landlord, custodian or other person wishes to retain.

The Government shall compensate, at the prevailing rate, such carrier, landlord, custodian, or other person for furnishing such aid.

(b) Applications for a court order under this title are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to the court having jurisdiction under section 103, and a judge to whom an application is made may, notwithstanding any other law, grant an order in conformity with section 105, approving physical search or electronic surveillance of a foreign power or an agent of a foreign power for the purpose of obtaining foreign intelligence information, except that the court shall not have jurisdiction to grant any order approving physical search or electronic surveillance directed solely as described in paragraph-(1)-(A) of subsection (a) unless such surveillance may involve the property or acquisition of communications of any United States person.

(c) Applications to a military judge appointed pursuant to the Uniform Code of Military Justice are authorized and such a judge may grant an order in conformity with Section 105 with respect to physical search or electronic surveillance conducted by military components and directed against persons

subject to the Uniform Code of Military Justice, 10 U.S.C.  
§ 802(1) through (10)

#### DESIGNATION OF JUDGES

Sec. 103. (a) The Chief Justice of the United States shall publicly designate seven district court judges from seven of the United States judicial circuits who shall constitute a court which shall have jurisdiction to hear applications for and grant orders approving physical search or electronic surveillance, anywhere within the United States under the procedures set forth in this Act, except that no judge designated under this subsection shall hear the same application ~~for electronic surveillance~~ under this Act which has been denied previously by another judge designated under this subsection. If any judge so designated denies an application for an order ~~authorizing electronic surveillance~~ under this Act, such judge shall provide immediately for the record a written statement of each reason for his decision and, on motion of the United States, the record shall be transmitted, under seal, to the court of review established in subsection (b).

(b) The Chief Justice shall publicly designate three judges, one of whom shall be publicly designated as the presiding judge, from the United States district courts or courts of appeals who together shall comprise a court of review which shall have jurisdiction to review the denial of any application made under this Act. If such court determines that the application was properly denied, the court shall immediately provide for the record a written statement of each reason for its decision and, on petition of the United States for a writ of certiorari, the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.

(c) Proceedings under this Act shall be conducted as expeditiously as possible. The record of proceedings under this Act, including applications made and orders granted, shall be maintained under security measures established by the Chief Justice in consultation with the Attorney General and the Director of Central Intelligence.

(d) Each judge designated under this section shall so serve for a maximum of seven years and shall not be eligible for redesignation except that the judges first designated under subsection (a) shall be designated for terms of from one to seven years so that one term expires each year, and that judges first designated under subsection (b) shall be designated for terms of three, five, and seven years.

APPLICATION FOR AN ORDER

Sec. 104. (a) Each application for an order approving physical search or electronic surveillance under this title shall be made by a Federal officer in writing upon oath or affirmation to a judge having jurisdiction under section 103. Each application shall require the approval of the Attorney General based upon his finding that it satisfies the criteria and requirements of such application as set forth in this title. It shall include--

(1) the identity of the Federal officer making the application;

(2) the authority conferred on the Attorney General by the President of the United States and the approval of the Attorney General to make the applications;

(3) the identity, if known, or a description of the target of electronic surveillance or the property or persons subject to the physical search;

(4) a statement of the facts and circumstances relied upon by the applicant to justify belief that--

(A) the target of the physical search or electronic surveillance is a foreign power or an agent of a foreign power; and

(B) each of the facilities, or places or items of property at which the electronic surveillance is directed is the property of, or is being used by, or is about to be used by, a foreign power or an agent of a foreign power;

(5) a statement of the proposed minimization procedures;

(6) a detailed description of the nature of the information sought and the type of property or communications or activities to be subjected to the search or surveillance;

(7) a certification or certifications by the Assistant to the President for National Security Affairs or an executive branch official or officials designated by the President from among those executive officers employed in the area of national security or defense and



appointed by the President with the advice and consent of the Senate--

(A) that the certifying official deems the information sought to be foreign intelligence information;

(B) that the purpose of the search or surveillance is to obtain foreign intelligence information;

(C) that such information cannot reasonably be obtained by normal investigative techniques;

(D) that designates the type of foreign intelligence information being sought according to the categories described in section 101(e); and

(E) including a statement of the basis for the certification that--

(i) the information sought is the type of foreign intelligence information designated; and

(ii) such information cannot reasonably be obtained by normal investigative techniques;

(8) a statement of the means by which the search or surveillance will be effected and, for surveillance, a statement whether physical entry is required to effect the surveillance;

(9) a statement of the facts concerning all previous applications involving the same technique that have been made to any judge under this title involving any of the persons, property, facilities, or places specified in the application, and the action taken on each previous application;

(10) a statement of the period of time which the the physical search will encompass or for which the electronic surveillance is required to be maintained, and if the nature of the intelligence gathering is such that the approval of the use of physical search or electronic surveillance under this title should not automatically terminate when the described type of information has first been obtained, a description of facts supporting the belief that additional information of the same type will be obtained thereafter; and

(11) whenever more than one electronic, mechanical or other surveillance device is to be used with respect to a particular proposed electronic surveillance, the coverage of the devices involved and what minimization procedures apply to information acquired by each device.

(b) Whenever the target of the physical search or electronic surveillance is a foreign power, as defined in section 101(a)(1), (2), or (3), and each of the facilities, places or items of property at which the search or surveillance is directed is owned, leased, or exclusively used, or openly and exclusively controlled by that foreign power, the application need not contain the information required by paragraphs (6), (7)(E), (8), and (11) of subsection (a), but shall state whether physical entry is required to effect the search or surveillance and shall contain such information about the search or surveillance techniques and communications or other information concerning United States persons likely to be obtained as may be necessary to assess the proposed minimization procedures.

(c) The Attorney General may require any other affidavit or certification from any other officer in connection with the application.

(d) The judge may require the applicant to furnish such other information as may be necessary to make the determinations required by section 105.

#### ISSUANCE OF AN ORDER

Sec. 105. (a) Upon an application made pursuant to section 104, the judge shall enter an ex parte order as requested or as modified approving the physical search or electronic surveillance if he finds that-

(1) the President has authorized the Attorney General to approve applications for physical search or electronic surveillance for foreign intelligence information;

(2) the application has been made by a Federal officer and approved by the Attorney General;

(3) on the basis of the facts submitted by the applicant there is probable cause to believe that -

(A) the target of the physical search or electronic surveillance is a foreign power or an agent of a foreign power: Provided, That no United States person may be

considered a foreign power or an agent of a foreign power solely upon the basis of activities protected by the first amendment to the Constitution of the United States; and

(B) each of the facilities, places, or items of property at which the physical search or electronic surveillance is directed is the property of, is being used by, or is about to be used by, a foreign power or an agent of a foreign power;

(4) the proposed minimization procedures meet the definition of minimization procedures under section 101(h); and

(5) the application which has been filed contains all statements and certifications required by section 104 and, if the target is a United States person, the certification or certifications are not clearly erroneous on the basis of the statement made under section 104(a)(7)(E) and any other information furnished under section 104(d).

(b) An order approving physical search or electronic surveillance under this section shall--

(1) specify-

(A) the identity physical search or, if known, or a description of the target of the electronic surveillance;

(B) the nature and location of each of the facilities, places or items of property at which the physical search or electronic surveillance will be directed;

(C) the type of information sought to be acquired and the type of communications, activities or property to be subjected to the search or surveillance;

(D) the means by which the physical search or electronic surveillance will be effected and, whether physical entry will be used to effect the search or surveillance;

(E) the period of time during which the physical search or electronic surveillance is approved; and

(F) whenever more than one electronic, mechanical, or other surveillance device is to be

used with respect to a particular electronic surveillance under the order, the authorized coverage of the devices involved and what minimization procedures shall apply to information subject to acquisition by each device; and

(2) direct-

(A) that the minimization procedures be followed;

(B) that upon the request of the applicant a specified communication or other common carrier, landlord, custodian, or other specified person furnish the applicant forthwith all information, facilities, or technical assistance necessary to accomplish the physical search or electronic surveillance in such a manner as will protect its secrecy and produce a minimum of interference with the services that such carrier, landlord, custodian, or other person is providing that target of physical search or electronic surveillance;

(C) that such carrier, landlord, custodian, or other person maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the search or surveillance or the aid furnished that such person wishes to retain; and

(D) that the applicant compensate, at the prevailing rate, such carrier, landlord, custodian, or other person for furnishing such aid.

(c) Whenever the target of the physical search or electronic surveillance is a foreign power, as defined in section 101(a)(1), (2), or (3) and each of the facilities, places or items of property at which the search or surveillance is directed is owned, leased, exclusively used or openly and exclusively controlled by that foreign power the order need not contain the information required by subparagraphs (C), (D), and (F) of subsection (b)(1), but shall generally describe the information sought and the communications, activities or property to be subjected to the search or surveillance and for surveillances the type of electronic surveillance involved including whether physical entry is required.

(d)(1) An order issued under this section may approve physical search or electronic surveillance for the period necessary to achieve its purpose, or for ninety days,

whichever is less, except that an order under this section shall approve an electronic surveillance targeted against a foreign power, as defined in section 101(a) (1), (2), or (3), for the period specified in the application or for one year whichever is less.

(2) Extensions of an order issued under this title may be granted on the same basis as an original order upon an application for an extension and new findings made in the same manner as required for an original order, except that an extension of an order under this Act for a surveillance targeted against a foreign power, as defined in section 101(a) (5) or (6), or against a foreign power as defined in section 101(a)(4) that is not a United States person, may be for a period not to exceed one year if the judge finds probable cause to believe that no communication of any individual United States person will be acquired during the period.

(3) At or before the end of the period of time for which physical search or electronic surveillance is approved by an order or an extension, the judge may assess compliance with the minimization procedures by reviewing the circumstances under which information concerning United States persons was acquired, retained, or disseminated.

(c) Notwithstanding any other provision of this title, when the Attorney General reasonably determines that-

(1) an emergency situation exists with respect to the use of physical search or electronic surveillance to obtain foreign intelligence information before an order authorizing such search or surveillance can with due diligence be obtained; and

(2) the factual basis for issuance of an order under this title to approve such search or surveillance exists;

he may authorize the emergency employment of physical search or electronic surveillance if a judge having jurisdiction under section 103 is informed by the Attorney General or his designee at the time of such authorization that the decision has been made to use emergency physical search or electronic surveillance and if an application in accordance with this title is made to that judge as soon as practicable, but not more than twenty-four hours after the Attorney General authorizes such search or surveillance. If the Attorney General authorizes such emergency employment of physical search or electronic surveillance he shall require that the minimization procedures required by this title for the issuance of a

judicial order be followed. In the absence of a judicial order approving such physical search or electronic surveillance the search or surveillance shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of twenty-four hours from the time of authorization by the Attorney General, whichever is earliest. In the event that such application for approval is denied, or in any other case where the physical search or electronic surveillance is terminated and no order is issued approving the search or surveillance, no information obtained or evidence derived from such search or surveillance shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such search or surveillance shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person. A denial of the application made under this subsection may be reviewed as provided in section 103.

(f) Notwithstanding any other provision of this title, officers, employees, or agents of the United States are authorized in the normal course of their official duties to conduct electronic surveillance not targeted against the communications of any particular person or persons, under procedures approved by the Attorney General, solely to-

(1) test the capability of electronic equipment, if-

(A) it is not reasonable to obtain the consent of the persons incidentally subjected to the surveillance;

(B) the test is limited in extent and duration to that necessary to determine the capability of the equipment;

(C) the contents of any communication acquired are retained and used only for the purpose of determining the capability of the equipment, are disclosed only to test personnel, and are destroyed before or immediately upon completion of the test and;

(D) Provided, That the test may exceed ninety days only with the prior approval of the Attorney General;

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(2) determine the existence and capability of electronic surveillance equipment being used by persons not authorized to conduct electronic surveillance, if-

(A) it is not reasonable to obtain the consent of persons incidentally subjected to the surveillance

(B) such electronic surveillance is limited in extent and duration to that necessary to determine the existence and capability of such equipment; and

(C) any information acquired by such surveillance is used only to enforce chapter 119 of title 18, United States Code, or section 605 of the Communications Act of 1934, or to protect information from unauthorized surveillance; or

(3) train intelligence personnel in the use of electronic surveillance equipment, if-

(A) it is not reasonable to-

(i) obtain the consent of the persons incidentally subjected to the surveillance;

(ii) train persons in the course of surveillances otherwise authorized by this title; or

(iii) train persons in the use of such equipment without engaging in electronic surveillance;

(B) such electronic surveillance is limited in extent and duration to that necessary to train the personnel in the use of the equipment; and

(C) no contents of any communication acquired are retained or disseminated for any purpose, but are destroyed as soon as reasonably possible.

(g) Certifications made by the Attorney General pursuant to section 102(a) and applications made and orders granted under this title shall be retained for a period of at least ten years from the date of the certification or application.

#### USE OF INFORMATION

Sec. 106. (a) Information acquired from physical search or electronic surveillance conducted pursuant to this title concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the minimization procedures required by this title. No

otherwise privileged communication obtained in accordance with, or in violation of, the provisions of this title shall lose its privileged character. No information acquired from physical search or electronic surveillance pursuant to this title may be used or disclosed by Federal officers or employees except for lawful purposes.

(b) No information acquired pursuant to this title shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

(c) Whenever the Government intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, against an aggrieved person, any information obtained or derived from an electronic surveillance of, or physical search of the property of, that aggrieved person pursuant to the authority of this title, the Government shall, prior to the trial, hearing, or other proceeding or at a reasonable time prior to an effort to so disclose or so use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the Government intends to so disclose or so use such information.

(d) Whenever any State or political subdivision thereof intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of a State or a political subdivision thereof, against an aggrieved person any information obtained or derived from an electronic surveillance of, or physical search of the property of that aggrieved person pursuant to the authority of this title, the State or political subdivision thereof shall notify the aggrieved person, the court or other authority in which the information is to be disclosed or used, and the Attorney General that the State or political subdivision thereof intends to so disclose or so use such information.

(e) Any person against whom evidence obtained or derived from physical search or electronic surveillance to which he is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the



United States, a State, or a political subdivision thereof, may move to suppress the evidence obtained or derived from such physical search or electronic surveillance on the grounds that-

(1) the information was unlawfully acquired; or

(2) the search or surveillance was not made in conformity with an order of authorization or approval. Such a motion shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the person was not aware of the grounds of the motion.

(f) Whenever a court or other authority is notified pursuant to subsection (c) or (d), or whenever a motion is made pursuant to subsection (e), or whenever any motion or request is made by an aggrieved person pursuant to any other statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain applications or orders or other materials relating to physical search or electronic surveillance or to discover, obtain, or suppress evidence or information obtained or derived from physical search or electronic surveillance under this Act, the United States district court or, where the motion is made before another authority, the United States district court in the same district as the authority, shall, notwithstanding any other law, if the Attorney General files an affidavit under oath that disclosure or an adversary hearing would harm the national security of the United States, review in camera and ex parte the application, order, and such other materials relating to the search or surveillance as may be necessary to determine whether the search or surveillance of, of, the aggrieved person was lawfully authorized and conducted. In making this determination, the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials relating to the search or surveillance only where such disclosure is necessary to make an accurate determination of the legality of the search or surveillance.

(g) If the United States district court pursuant to subsection (f) determines that the search or surveillance was not lawfully authorized or conducted, it shall, in accordance with the requirements of law, suppress the evidence which was unlawfully obtained or derived from physical search or electronic surveillance of, the aggrieved person or otherwise grant the motion of the aggrieved person. If the court determines that the surveillance was

lawfully authorized and conducted, it shall deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

(h) Orders granting motions or requests under subsection (g), decisions under this section that a physical search or an electronic surveillance was not lawfully authorized or conducted, and orders of the United States district court requiring review or granting disclosure of applications, orders, or other materials relating to a search or surveillance shall be final orders and binding upon all courts of the United States and the several States except a United States court of appeals and the Supreme Court.

(i) In circumstances involving the unintentional acquisition by an electronic, mechanical, or other surveillance device of the contents of any radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, and if both the sender and all intended recipients are located within the United States, such contents shall be destroyed upon recognition, unless the Attorney General determines that the contents indicate a threat of death or serious bodily harm to any person.

(j) If an emergency employment of physical search or electronic surveillance is authorized under section 105(e) and a subsequent order approving the surveillance is not obtained, the judge shall cause to be served on any United States person named in the application and on such other United States persons subject to physical search or electronic surveillance as the judge may determine in his discretion it is in the interest of justice to serve, notice of-

(1) the fact of the application;

(2) the period of the search or surveillance; and

(3) the fact that during the period information was or was not obtained.

On an ex parte showing of good cause to the judge the serving of the notice required by this subsection may be postponed or suspended for a period not to exceed ninety days. Thereafter, on a further ex parte showing of good cause, the court shall forego ordering the serving of the notice required under this subsection.

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## REPORT OF PHYSICAL SEARCH AND ELECTRONIC SURVEILLANCE

Sec. 107. In April of each year, the Attorney General shall transmit to the Administrative Office of the United States Court and to Congress a report setting forth with respect to the preceeding calendar year-

(a) the total number of applications made for orders and extensions of orders approving physical search or electronic surveillance under this title; and

(b) the total number of such orders and extensions either granted, modified, or denied.

## CONGRESSIONAL OVERSIGHT

Sec. 108. (a) On a semiannual basis the Attorney General shall fully inform the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence concerning all physical searches and electronic surveillances under this title. Nothing in this title shall be deemed to limit the authority and responsibility of the appropriate committees of each House of Congress to obtain such information as they may need to carry out their respective functions and duties.

(b) On or before one year after the effective date of this Act and on the same day each year for four years thereafter, the Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence shall report respectively to the House of Representatives and the Senate concerning the implementation of this Act. Said reports shall include but not be limited to an analysis and recommendations concerning whether this Act should be (1) amended, (2) repealed, or (3) permitted to continue in effect without amendment.

## PENALTIES

Sec. 109. (a) OFFENSE.--A person is guilty of an offense if he intentionally-

(1) engages in physical search or electronic surveillance under color of law except as authorized by statute; or

(2) discloses or uses information obtained under color of law by physical search or electronic surveillance, knowing or having reason to know that the information was obtained through physical search or electronic surveillance not authorized by statute.

(b) DEFENSE.--It is a defense to a prosecution under subsection (a) that the defendant was a law enforcement or investigative officer engaged in the course of his official duties and the physical search or electronic surveillance was authorized by and conducted pursuant to a search warrant or court order of a court of competent jurisdiction.

(c) PENALTY.--An offense described in this section is punishable by a fine of not more than \$10,000 or imprisonment for not more than five years, or both.

(d) JURISDICTION.--There is Federal jurisdiction over an offense under this section if the person committing the offense was an officer or employee of the United States at the time the offense was committed.

#### CIVIL LIABILITY

Sec. 110. CIVIL ACTION. An aggrieved person, other than a foreign power or an agent of a foreign power, as defined in section 101(a) or 'b)(1)(A), respectively, who has been subjected to an electronic surveillance or whose property has been the subject of a physical search or about whom information obtained by electronic surveillance of such person or physical search of such property has been disclosed or used in violation of section 109 shall have a cause of action against any person who committed such violation and shall be entitled to recover--

(a) actual damages, but not less than liquidated damages of \$1,000 or \$100 per day for each day of violation, whichever is greater;

(b) punitive damages; and

(c) reasonable attorney's fees and other investigation and litigation costs reasonably incurred.

#### AUTHORIZATION DURING TIME OF WAR

Sec. 111. Notwithstanding any other law, the President, through the Attorney General, may authorize physical search or electronic surveillance without a court order under this title to acquire foreign intelligence information for a period not to exceed fifteen calendar days following a declaration of war by the Congress.

#### TITLE II CONFORMING AMENDMENTS

AMENDMENTS TO CHAPTER 119 OF TITLE 18, UNITED STATES CODE

Sec. 201. Chapter 119 of title 18, United States Code, is amended as follows:

(a) Section 2511(2)(a)(ii) is amended to read as follows:

"(ii) Notwithstanding any other law, communication common carriers, their officers, employees, and agents, landlords, custodians, or other persons, are authorized to provide information, facilities, or technical assistance to persons authorized by law to intercept wire or oral communications or to conduct electronic surveillance or to engage in physical search as defined in section 101 of the Foreign Intelligence Search and Surveillance Act of 1978, if the common carrier, its officers, employees, or agents, landlord, custodian, or other specified person, has been provided with-

"(A) a court order directing such assistance signed by the authorizing judge, or

"(B) a certification in writing by a person specified in section 2518(7) of this title or the Attorney General of the United States that no warrant or court order is required by law, that all statutory requirements have been met, and that the specified assistance is required,

setting forth the period of time during which the provision of the information, facilities, or technical assistance is authorized and specifying the information, facilities, or technical assistance required. No communication common carrier, officer, employee, or agent thereof, or landlord, custodian, or other specified person shall disclose the existence of any interception or surveillance, or the device used to accomplish the interception or surveillance, or physical search with respect to which the person has been furnished an order or certification under this subparagraph, except as may otherwise be required by legal process and then only after prior notification to the Attorney General or to the principal prosecuting attorney of a State or any political subdivision of a State, as may be appropriate. Any violation of this subparagraph by a communication common carrier or an officer, employee, or agent thereof, shall render the carrier liable for the civil damages provided for in section 2520. No cause of action shall lie in any court against any communication common carrier, its officers, employees, or agents, landlord, custodian, or other specified person for providing information, facilities, or assistance in accordance with the terms of an order or certification under this subparagraph."

(b) Section 2511(2) is amended by adding at the end thereof the following new provisions:

"(e) Notwithstanding any other provision of this title or section 605 or 606 of the Communications Act of 1934, it shall not be unlawful for an officer, employee, or agent of the United States in the normal course of his official duty to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Search and Surveillance Act of 1978, as authorized by that Act.

"(f) Nothing contained in this chapter, or section 605 of the Communications Act of 1934, shall be deemed to affect the acquisition by the United States Government of foreign intelligence information from international or foreign communications by a means other than electronic surveillance as defined in section 101 of the Foreign Intelligence Search and Surveillance Act of 1978 and procedures in this chapter and the Foreign Intelligence Search and Surveillance Act of 1978 shall be the exclusive means by which electronic surveillance, as defined in section 101 of such Act, and the interception of domestic wire and oral communications may be conducted."

(c) Section 2511(3) is repealed.

(d) Section 2518(1) is amended by inserting "under this chapter" after "communication".

(e) Section 2518(4) is amended by inserting "under this chapter" after both appearances of "wire or oral communication".

(f) Section 2518(9) is amended by striking out "intercepted" and inserting "intercepted pursuant to this chapter" after "communication."

(g) Section 2518(10) is amended by striking out "intercepted" and inserting "intercepted pursuant to this chapter" after the first appearance of "communication."

(h) Section 2519(3) is amended by inserting "pursuant to this chapter" after "wire or oral communications" and after "granted or denied."

#### TITLE III--EFFECTIVE DATE

##### EFFECTIVE DATE

Sec. 301. (a) The provisions of this Act and the amendments made hereby shall become effective upon the date of enactment of this Act, except that any electronic surveillance approved by the Attorney General to gather foreign intelligence information shall not be deemed unlawful for failure to follow

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the procedures of this Act, if that surveillance is terminated or an order approving that surveillance is obtained under title I of this Act within ninety days following the designation of the first judge pursuant to section 103 of this Act.

(b) The provisions of the amendments of this Act made hereby shall become effective ninety days after the date of their enactment.

TITLE V -- FEDERAL BUREAU OF INVESTIGATION

STATEMENT OF PURPOSE

Sec. 501. It is the purpose of this Act --

(1) to authorize the Federal Bureau of Investigation, subject to the supervision and control of the Attorney General, to perform certain intelligence activities necessary for the conduct of the foreign relations and the protection of the national security of the United States;

(2) to delineate responsibilities of the Director of the Federal Bureau of Investigation, and to confer upon the director the authority necessary to fulfill those responsibilities;

(3) to ensure that the intelligence activities of the Federal Bureau of Investigation are properly and effectively directed, regulated, coordinated; and administered; and

(4) to ensure that in the conduct of its intelligence activities the Federal Bureau of Investigation is accountable to the Attorney General, the President, the Congress, and the people of the United States and that those activities are conducted in a manner consistent with the Constitution and laws of the United States.

SUPERVISION AND CONTROL

Sec. 502. (a) All authorities, duties, and responsibilities of the Federal Bureau of Investigation (hereinafter in this title referred to as the "Bureau") for the conduct of intelligence activities, including law enforcement aspects



of intelligence activities, shall be exercised in accordance with this Act.

(b) All intelligence functions of the Bureau shall be performed under the supervision and control of the Attorney General. In exercising such supervision and control, the Attorney General shall be guided by policies and priorities established by the National Security Council and shall be responsive to foreign intelligence collection objectives, requirements, and plans promulgated by the Director of National Intelligence.

(c) The Attorney General and the Director of the Federal Bureau of Investigation (hereinafter in this title referred to as the "Director") shall review at least annually the intelligence activities conducted or coordinated by the Bureau to determine whether those activities have been conducted in accordance with the requirements of this Act and procedures approved by the Attorney General pursuant to this Act.

(d) The Attorney General and the Director shall publicly designate officials who shall have the same responsibilities and authorities with respect to the intelligence activities of the Bureau as the general counsel and inspector general of each entity of the intelligence community have under section 151 of this Act with respect to the intelligence activities of that entity.

DUTIES OF THE DIRECTOR OF THE  
FEDERAL BUREAU OF INVESTIGATION

Sec. 503. (a) It shall be the duty of the Director, under the supervision and control of the Attorney General, to -

(1) ensure that intelligence activities conducted or coordinated by the Bureau are carried out in conformity with the provisions of this Act and with the Constitution and laws of the United States and that such activities do not abridge any right protected by the Constitution or laws of the United States;

(2) ensure that the intelligence activities of the Bureau are properly and efficiently directed, regulated, coordinated, and administered;

(3) keep the Attorney General fully and currently informed of all intelligence activities conducted or coordinated by the Bureau and provide the Attorney General with any information the Attorney General may request concerning such activities;

(4) serve as the principal officer of the Government for the conduct and coordination of counterintelligence activities and counterterrorism intelligence activities within the United States;

(5) advise the Attorney General and the National Security Council regarding the objectives, priorities, direction, conduct, and effectiveness of counterintelligence and counterterrorism intelligence activities within the United States;

(6) assist the Attorney General and the National Security Council in the assessment of the threat to United States interests from intelligence activities within the United States of foreign powers and from international terrorist activities within the United States; and

(7) perform with respect to the Bureau the duties assigned elsewhere in this Act to the head of each entity of the Intelligence Community.

(b) The Attorney General shall provide by regulation which officials of the Bureau shall perform the duties of the Director under this Act during the absence or disability of the Director or during any temporary vacancy in the Office of the Director.

COUNTERINTELLIGENCE AND COUNTERTERRORISM  
INTELLIGENCE FUNCTIONS

Sec. 504. (a) The Bureau shall, in accordance with procedures approved by the Attorney General, -

(1) collect counterintelligence and counterterrorism intelligence from publicly available sources, from any person willing voluntarily to provide such intelligence, and, when appropriate, by clandestine or technical means;

(2) conduct such counterintelligence and counterterrorism intelligence activities other than collection of information as are necessary to protect against espionage or any other clandestine intelligence activity, sabotage, any international terrorist activity, or any assassination; and

(3) conduct, in coordination with the Director of National Intelligence, liaison for counterintelligence or counterterrorism intelligence purposes with foreign governments.

(b) The Bureau shall produce, analyze, disseminate counterintelligence and counterterrorism intelligence studies and reports and shall assist the Attorney General and the National Security Council in the assessment of the threat to United States interests from intelligence activities within the United States of foreign powers and from international terrorist activities within the United States.

(c) All Bureau counterintelligence and counterterrorism intelligence activities outside the United States shall be conducted in coordination with the Central Intelligence Agency and with the approval of a properly designated official of such agency. All requests for such approval shall be made or confirmed in writing. Any such activities that are not related directly to the responsibilities of the Bureau for the conduct of counterintelligence or counterterrorism intelligence activities within the United States shall be conducted only with the approval of the Attorney General or a designee and shall be limited to

(1) counterintelligence or counterterrorism intelligence activities in any foreign country when requested by the government of that country;

(2) assistance to any law enforcement, intelligence, or security agency of a foreign government in the collection of counterintelligence or counterterrorism intelligence when requested by such agency; or

(3) counterintelligence or counterterrorism intelligence activities conducted upon the request of the Central Intelligence Agency or the Department of Defense.

(d) (1) The Bureau shall be responsible for the coordination of all counterintelligence and counterterrorism intel-

ligence activities conducted within the United States by any other entity of the intelligence community.

(2) Such activities shall be conducted only with the approval of a properly designated official of the Bureau and only if the request for such approval -

(A) is made or confirmed in writing by a properly designated senior official of the requesting entity;

(B) describes the activity to be conducted; and

(C) sets forth the reasons why the requesting activity wishes to conduct such activity within the

(3) The Bureau shall provide the Attorney General or a designee in a timely manner with copies of all requests made to the Bureau under this subsection and shall notify the Attorney General or a designee in a timely manner of any action taken by the Bureau with respect thereto.

(4) Any entity of the intelligence community conducting any counterintelligence or counterterrorism intelligence activity within the United States shall keep the Bureau fully and currently informed regarding that activity.

(5) The requirements of paragraphs (2) through (4) of this subsection shall not apply to counterintelligence or counterterrorism intelligence activities of the military

services directed solely against members or retired members of such military services, except for activities conducted by clandestine or technical means outside military installations.

#### FOREIGN INTELLIGENCE FUNCTIONS

Sec. 505. (a) The Bureau may, in accordance with procedures approved by the Attorney General, -

(1) collect foreign intelligence within the United States from publicly available sources, from any person willing voluntarily to provide such intelligence, and, when necessary, by clandestine or technical means;

(2) conduct activities within the United States in support of the foreign intelligence collection requirements of any other entity of the intelligence community; and

(3) produce, analyze, and disseminate foreign intelligence in coordination with the Director of National Intelligence.

(b) Any Bureau collection of foreign intelligence upon the request of another entity of the intelligence community, or any Bureau activity in support of the foreign intelligence collection requirements of another entity of the intelligence community, shall be conducted only upon the request, made or confirmed in writing, of an official of such other entity

who has been designated by the President to make such requests. The Bureau may not comply with any such request unless such request -

(1) describes the information sought or the support activity requested;

(2) certifies that the information sought or the support activity requested is relevant to the authorized functions and duties of the requesting entity; and

(3) sets forth the reasons why the Bureau is being requested to collect the information or conduct the support activity.

The Bureau shall provide the Attorney General or a designee in a timely manner with copies of all such requests, and shall conduct such support activity only with the approval of the Director.

(c) The Bureau shall be responsible, in accordance with procedures agreed upon by the Attorney General and the Director of National Intelligence, for the coordination of all collection of foreign intelligence by clandestine or technical means within the United States by any other entity of the intelligence community.

#### COOPERATION WITH FOREIGN GOVERNMENTS

Sec. 506. (a) The Bureau may, in accordance with procedures approved by the Attorney General, collect counter-



intelligence and counterterrorism intelligence within the United States upon the written request of any law enforcement intelligence, or security agency of a foreign government, and provide assistance to any officer of such agency who is collecting intelligence within the United States. The Bureau may not comply with any such request unless such request specifies the purposes for which the intelligence or assistance is sought and -

(1) the Bureau would be authorized under this Act to collect the intelligence or provide the assistance in the absence of any such request; or

(2) the collection of the intelligence or the provision of assistance pertains to foreign persons and is approved by the Attorney General or a designee after a written finding that, as a matter of comity, such collection or assistance is in the interests of the United States.

(b) The Bureau shall keep the Attorney General or a designee fully and currently informed of all intelligence collection within the United States by officers or agencies of foreign governments in which information or assistance is furnished by the Bureau.

(c) The authority provided in subsection (a) of this section is subject to the procedures, prohibitions, and restrictions contained in titles II and III of this Act.

GENERAL AND SPECIAL ACTIVITIES

Sec. 507. (a) In carrying out its functions under this title, the Bureau is authorized to -

(1) procure or lease such property, supplies, services, equipment, buildings, and facilities, and construct or alter such buildings and facilities, as may be necessary to carry out its authorized intelligence functions;

(2) establish, furnish, and maintain secure cover for Bureau officers, employees, and sources when necessary to carry out its authorized intelligence functions, in accordance with procedures approved by the Attorney General;

(3) establish and operate proprietaries when necessary to support Bureau intelligence activities, in accordance with procedures approved by the Attorney General;

(4) deposit public moneys in banks or other financial institutions when necessary to carry out its authorized intelligence functions;

(5) conduct or contract for research, development, and procurement of technical systems and devices relating to its authorized intelligence functions;

(6) protect from unauthorized disclosure, in accordance with standards established by the Director of National Intelligence under section 114, intelligence sources and methods;

(7) perform such additional functions as are otherwise authorized by this Act to be performed by each entity of the intelligence community.

(b) (1) Any proprietary established and operated by the Bureau may be operated on a commercial basis to the extent necessary to provide effective cover. Any funds generated by any such proprietary in excess of the amount necessary for its operational requirements shall be deposited by the Director into miscellaneous receipts of the Treasury.

(2) Whenever any Bureau proprietary whose net value exceeds \$50,000, is to be liquidated, sold, or otherwise disposed of, the Bureau shall, as much in advance of the liquidation, sale, or other disposition of the proprietary as practicable and subject to such security standards as the Director and the Attorney General shall agree upon, report the circumstances of the intended liquidation, sale, or other disposition to the Attorney General and the Comptroller General of the United States. Any proceeds from any liquidation, sale, or other disposition of any Bureau proprietary, in whatever amount, after all obligations of the proprietary have been met, shall

be deposited by the Director into miscellaneous receipts of the Treasury.

(c) The authority contained in clauses (1), (2), (3), and (4) of subsection (a) shall, except as otherwise provided in this Act, be available to the Bureau notwithstanding any other provision of law and shall not be modified, limited, suspended, or superseded by any provision of law enacted after the effective date of this title unless such provision expressly cites the specific provision of subsection (a) intended to be so modified, limited, suspended, or superseded.

(d) The Bureau is authorized, in accordance with procedures approved by the Attorney General, to procure or lease property, goods, or services for its own use in such a manner that the role of the Bureau is not apparent or publicly acknowledged when public knowledge could inhibit or interfere with the secure conduct of an authorized intelligence function of the Bureau.

TITLE VI-- NATIONAL SECURITY AGENCY

PART A -- PURPOSES

STATEMENT OF PURPOSES

Sec. 601. It is the purpose of this title --

(1) to authorize, and provide guidance for, those signals intelligence and communications security activities necessary for the conduct of the foreign relations and the protection of the national security of the United States;

(2) to ensure that signals intelligence and communications security activities are properly and effectively directed, regulated, coordinated and administered, and are organized and conducted so as to meet, in the most efficient manner, the signals intelligence and communications security needs of the United States;

(3) to establish by law the National Security Agency, to provide for the appointment of a director of that Agency, to delineate the responsibilities of such director, and to confer upon such director the authorities necessary to fulfill those responsibilities;

(4) to ensure that the National Security Agency is accountable to the President, the Congress, and the people of the United States and that the signals intelligence activities and communications security activities of the United States are conducted in a manner consistent with the Constitution and laws of the United States.

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PART B

ESTABLISHMENT OF AGENCY; DIRECTOR; DEPUTY DIRECTOR;  
GENERAL COUNSEL; INSPECTOR GENERAL; DUTIES

ESTABLISHMENT OF NATIONAL SECURITY AGENCY; FUNCTION

Sec. 611. (a) There is established within the Department of Defense an agency to be known as the National Security Agency (hereinafter in this title referred to as the "Agency").

(b) It shall be the function of the Agency to conduct signals intelligence activities and communications security activities for the United States Government and to serve as the principal agency of the United States signals intelligence system.

(c) The functions of the Agency shall be carried out under the direct supervision and control of the Secretary of Defense and shall be accomplished under the provisions of this Act and in conformity with the Constitution and laws of the United States. In exercising supervision and control over the Agency, the Secretary of Defense shall comply with intelligence and communications security policies, needs, and priorities established by the National Security Council and with intelligence objectives and requirements established by the Director of National Intelligence.

#### DIRECTOR AND DEPUTY DIRECTOR

Sec. 612. (a) There shall be a Director of the National Security Agency (hereinafter in this title referred to as the "Director"). There shall also be a Deputy Director of the National Security Agency (hereinafter in this title referred

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to as the "Deputy Director") to assist the Director in carrying out the Director's functions under this Act.

(b) The Director and the Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate. The Director and Deputy Director shall each serve at the pleasure of the President. Either the Director or Deputy Director shall be a person with cryptologic experience. No person may serve as Director or Deputy Director for a period of more than six years unless such person is reappointed to that same office by the President, by and with the advice and consent of the Senate. No person who has served as Director or Deputy Director for a period of less than six years and is subsequently appointed or reappointed to that same office may serve in that office under such appointment or reappointment for a term of more than six years. In no event may any person serve in either or both offices for more than a total of 12 years.

(c) At no time shall the two offices of Director and Deputy Director be occupied simultaneously by commissioned officers of the armed forces whether in an active or retired status.

(d)(1) If a commissioned officer of the armed forces is appointed as Director or Deputy Director, then --

(A) in the performance of the duties of Director or Deputy Director, as the case may be, the officer shall be subject to no supervision, control, restriction, or prohibition

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of the military departments, or the armed forces of the United States or any component thereof; and

(B) that officer shall not possess or exercise any supervision, control, powers, or functions (other than such as that officer possesses, or is authorized or directed to exercise, as Director, or Deputy Director) with respect to the Department of Defense, the military departments, or the armed forces of the United States or any component thereof, or with respect to any of the personnel (military or civilian) of any of the foregoing.

(2) Except as provided in this section, the appointment to the office of Director or Deputy Director of a commissioned officer of the armed forces, and acceptance or and service in such an office by that officer, shall in no way affect any status, office, rank, or grade that officer may occupy or hold in the armed forces, or any emolument, prerequisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade. A commissioned officer shall, while serving in the office of Director or Deputy Director, continue to hold rank and grade not lower than that in which that officer was serving at the time of that officer's appointment as Director or Deputy Director.

(3) The rank or grade of any such commissioned officer shall, during any period such officer occupies the office of Director or Deputy Director, be in addition to the numbers and percentages authorized for the military department of which such officer is a member.



(e) The Director and Deputy Director, whether civilian or military, shall be compensated while serving as Director or Deputy Director only from funds appropriated to the Department of Defense.

(f) If a commissioned officer of the armed forces is serving as Director or Deputy Director, that officer shall be entitled, while so serving, to the difference, if any, between the regular military compensation (as defined in section 101(25) of title 37, United States Code) to which that officer is entitled and the compensation provided for that office under subchapter II of chapter 53 of title 5, United States Code.

(g) The Deputy Director shall act in the place of the Director during the absence or disability of the Director or during any temporary vacancy in the office of the Director. The Director shall provide by regulation which officials of the Agency shall, whenever there is no Deputy Director, act in the place of the Director during the absence or disability of the Director or during any temporary vacancy in the office of the Director.

(h) In computing the twelve-year limitation prescribed in subsection (b) of this section, any service by a person as Director or Deputy Director of the National Security Agency as such agency existed on the day before the effective date of this title shall not be included.

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DUTIES OF THE DIRECTOR

Sec. 613. (a) It shall be the duty of the Director  
to --

(1) serve as the principal signals intelligence officer of the Government and the executive head of the National Security Agency;

(2) ensure that the signals intelligence activities of the United States Government are conducted in accordance with the provisions of this Act and with the Constitution and laws of the United States;

(3) direct and manage all cryptologic activities, resources, personnel, and programs of the Agency;

(4) organize, maintain, direct and manage the United States signals intelligence system;

(5) in accordance with intelligence policies, needs, and priorities established by the National Security Council and with intelligence requirements and objectives promulgated by the Director of National Intelligence, supervise, and formulate and promulgate operational plans, policies, and procedures for the conduct and control of, all signals intelligence collection, processing, reporting, and dissemination activities of the United States Government;

(6) ensure that signals intelligence is disseminated promptly and under appropriate security safeguards only to departments and agencies that require such intelligence for their lawful functions and have been authorized by the President to receive such intelligence;

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(7) serve, under the Secretary of Defense, as the principal communications security officer of the United States Government and ensure that the communications security activities of the United States Government are conducted in accordance with the provisions of this Act and with the Constitution and laws of the United States;

(8) fulfill the communications security requirements of all departments and agencies based upon policy guidance from the National Security Council operating pursuant to section 121 of this Act;

(9) consolidate, as necessary, the signals intelligence and the communications security functions of the United States Government for the purpose of achieving overall efficiency, economy, and effectiveness;

(10) conduct such research and development in support of signals intelligence and communications security activities as may be necessary to meet the needs of departments and agencies authorized to receive signals intelligence or which require communications security assistance, or delegate responsibility for such research and development to other departments or agencies, and review research and development conducted by any department or agency in support of signals intelligence and communications security activities;

(11) determine the manpower resources and administrative support needed by the Agency to conduct effectively its signals intelligence activities and, in accordance with such

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terms and conditions as shall be mutually agreed upon by the Director of National Intelligence and the Secretary of Defense, enter into agreements with other departments and agencies for the provision of such manpower resources and administrative support;

(12) determine the manpower resources and administrative support needed by the Agency to conduct effectively its communications security activities, and, based upon guidance from the Secretary of Defense, enter into agreements with other departments and agencies for the provision of such manpower resources and administrative support;

(13) review all proposed budgets, programs, and resource allocations for the signals intelligence activities of the United States, prepare a proposed consolidated United States signals intelligence program and budget for each fiscal year based upon program and budget guidance from the Secretary of Defense, and with respect to national intelligence activities on programs and budget guidance from the Director of National Intelligence, and submit each such proposed budget to the Director of National Intelligence and the Secretary of Defense;

(14) review all proposed programs, budgets, and resource allocations for the communications security activities of the United States Government, prepare a proposed consolidated Department of Defense communications security program and budget for each fiscal year, and submit each such proposed program and budget to the Secretary of Defense;

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- (15) establish appropriate controls for funds made available to the Agency to carry out its authorized activities;
- (16) ensure that cryptologic information is classified in accordance with applicable law and Executive orders;
- (17) conduct liaison on cryptologic matters with foreign governments and, when such matters involve national intelligence, conduct such liaison in coordination with the Director of National Intelligence;
- (18) provide for such communications support and facilities as may be necessary to (A) conduct signals intelligence activities in a timely and secure manner, and (B) ensure the expeditious handling of critical information for the United States Government;
- (19) prescribe all cryptographic systems and techniques, other than secret writing systems, to be used in any manner by or on behalf of the United States Government and provide for the centralized production and control of cryptographic systems and materials to be used by the United States Government;
- (20) evaluate, based, as appropriate, upon guidance from the Attorney General, the vulnerability of United States communications to interception and exploitation by unintended recipients and, under the supervision of the Secretary of Defense and in accordance with policy guidance from the National Security Council operating pursuant to section 121 of this Act, institute appropriate measures to ensure the confidentiality of such communications;

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(21) ensure that the Agency will receive, in a timely fashion, all signals intelligence collected by any entity of the United States Government;

(22) develop plans to ensure the responsiveness of the United States signals intelligence system to the needs of the Department of Defense, including the delegation of such tasking authority as may be appropriate;

(23) provide the Director of National Intelligence with such information on the activities of the Agency as the Director of National Intelligence requires to fulfill his statutory responsibilities;

(24) provide technical assistance to any other entity of the intelligence community engaged in lawful intelligence activities;

(25) issue such rules, regulations, directives, and procedures as may be necessary to implement this title; and

(26) perform with respect to the Agency the duties assigned elsewhere in this Act to the head of each entity of the Intelligence Community.

(b) It shall also be the duty of the Director to prescribe and enforce for the United States signals intelligence system and for the communications security activities of the United States Government security rules, regulations, procedures, standards, and requirements with respect to personnel security clearances, authorizations for access to facilities and information, physical security of facilities, equipment, and information.

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mation, and the transmission, processing, and reporting of information, in order to protect signals intelligence and communications security information from unauthorized disclosure. All such rules, regulations, procedures, standards, and requirements shall be in accord with applicable law and policy guidance from the Director of National Intelligence with respect to signals intelligence activities and the Secretary of Defense with respect to communications security activities.

(c) To assist the Director in the fulfillment of his responsibilities under this section, the heads of all departments and agencies shall furnish the Director, upon request and in accordance with applicable law, such data as the Director may require and the Director shall take appropriate steps to maintain the confidentiality of any information which is so provided.

#### GENERAL COUNSEL; INSPECTOR GENERAL

Sec. 614. (a) There shall be a General Counsel of the National Security Agency appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall serve as the principal legal adviser to the Director and shall have the responsibility and the authority to --

(1) review all activities of the Agency and advise the Director on whether such activities are in conformity with the laws of the United States, executive orders, presidential directives and memoranda, and rules, regulations, and policies applicable to the Agency;

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(2) review all proposed rules and regulations of the Agency, including but not limited to any rule or regulation proposed to implement the provisions of this Act, to ensure that any such rule or regulation is in conformity with the laws of the United States, executive orders, and presidential directives and memoranda;

(3) perform the same duties with respect to the Agency as the general counsel of each entity of the Intelligence Community is required to perform in the case of such entity by section 151 of this Act; and

(4) perform such additional duties as the Director may prescribe.

(b) There shall be an Inspector General of the National Security Agency appointed by the Director. The Inspector General shall have the responsibility and the authority to --

(1) perform the same duties with respect to the Agency as the inspector general of each entity of the Intelligence Community is required to perform in the case of such entity by section 151 of this Act; and

(2) perform such other duties as the Director may prescribe, including the conduct of investigations to determine in what respects the Agency may more effectively and efficiently perform its lawful functions.



GENERAL AND SPECIAL AUTHORITIES  
OF THE AGENCY; AUTHORIZATION FOR APPROPRIATIONS

GENERAL AUTHORITIES OF THE AGENCY

Sec. 621. (a) In carrying out its functions under this Act, the Agency is authorized to --

(1) transfer to and receive from other departments and agencies funds for the sole purpose of carrying out functions authorized by this title;

(2) exchange funds without regard to the provisions of section 3651 of the Revised Statutes (31 U.S.C. 543);

(3) reimburse other departments and agencies of the Government for personnel assigned or loaned to the Agency and services furnished to the Agency.

(4) rent any premises within or outside the United States necessary to carry out any function of the Agency authorized under this title, and make such alterations, improvements, and repairs to the premises of, or rented by, the Agency as may be necessary without regard to any limitation prescribed by law if the Director makes a written finding that waiver of such limitation otherwise applicable to the renting, alteration, improvement, or repair, as the case may be, is necessary to the successful performance of the Agency's functions or the security of its activities.

(5) lease buildings to the Government without regard to the limitations prescribed in section 322 of the Act en-

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 titled "An Act making appropriations for the Legislative Branch of the Government for the fiscal year ending 30 June 1933, and for other purposes," approved 30 June 1932 (40 U.S.C. 278a) or the provisions of section 2675 of title 10, United States Code;

(6) acquire, construct, or alter building and facilities (including family and bachelor housing in foreign countries only) without regard to the Public Building Act of 1959 (40 U.S.C. 601615) or section 2682 of title 10, United States Code;

(7) repair, operate, and maintain buildings, utilities, facilities, and appurtenances;

(8) conduct health-service programs as authorized by section 7901 of title 5, United States Code;

(9) in accordance with regulations approved by the Director, transport officers and employees of the Agency in Government-owned automotive equipment between their domiciles and places of employment where such personnel are engaged in work that makes such transportation necessary, and transport in such equipment, to and from school, children of Agency personnel who have quarters for themselves and their families at isolated stations outside the continental United States where adequate public or private transportation is not available;

(10) settle and pay claims of civilian and military personnel, as prescribed in Agency regulations consistent

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with the terms and conditions by which claims are settled and paid under the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 240-243);

(11) pay, in accordance with regulations approved by the Director, expenses of travel in connection with, and expenses incident to attendance at meetings of professional, technical, scientific, and other similar organizations when such attendance would be a benefit to the conduct of the work of the Agency;

(12) establish, furnish, and maintain, in coordination with the Director of National Intelligence, secure cover for Agency officers, employees, agents and activities;

(13) direct the transfer, on a non-reimbursable basis and after coordination with the head of the department or agency involved, and in cases involving transfers for national intelligence purposes with the Director of National Intelligence, of such cryptologic and cryptologic-related equipment and supplies among entities of the Intelligence Community and between entities of the Intelligence Community and departments and agencies as may be necessary for performance of the functions authorized by this title, and pay expenses for arrangements with foreign countries for cryptologic support;

(14) perform inspection, audit, public affairs, legal, and legislative services;

(15) protect, in accordance with standards established by the Director of National Intelligence under section 114

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of this Act and with any other applicable statute or executive order, materials and information related to intelligence sources and methods;

(16) perform such additional functions as are otherwise authorized by this Act to be performed by each entity of the Intelligence Community; and

(17) exercise such other authorities available to the Secretary of Defense as may be delegated by the Secretary of Defense to the Agency.

(b) The authority contained in clause (12) of subsection (a) shall, except as otherwise provided in this Act, be available to the Agency notwithstanding any other provision of law and shall not be modified, limited, suspended, or superseded by any provision of law enacted after the effective date of this title unless such provision expressly cites clause (12) of subsection (a) and specifically indicates how such authority is to be so modified, limited, suspended, or superseded.

(c) Notwithstanding the provisions of section 3678 of the Revised Statutes (31 U.S.C. 628) any department or agency may transfer to or receive from the Agency any sum of money approved by the Director of National Intelligence and the Director of the Office of Management and Budget for use in support of foreign cryptologic liaison functions authorized by this title.

(d) The Agency may use as its seal of office the insignia used by the Agency prior to the effective date of this title and judicial notice shall be taken of such seal.

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(e) The Director may appoint and assign security officers to police the installations and grounds of the Agency, where such security officers shall have the same powers as sheriffs and constables for the protection of persons and property, to prevent breaches of the peace, to suppress affrays or unlawful assemblies, and to enforce any rule or regulation the Director may promulgate for the protection of such installations and grounds. The jurisdiction and police powers of such security officers shall not, however, extend to the service of civil process.

(f) The Director may authorize employees of the Agency to carry firearms within the United States for courier protection purposes, for the protection of the Director and Deputy Director, and in exigent circumstances, such officials of the Agency as the Director may designate, and for the protection of any foreign person visiting the United States under Agency auspices.

(g)(1) The Agency may appoint, promote, and separate such personnel or contract for such personnel services as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments to, promotions in, and separations from the competitive services, and without regard to the limitations on types of persons to be employed, and fix the compensation of such personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title, relating to classification and General

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Schedule pay rates, but at rates not in excess of the rate authorized for GS-18 by section 5332 of that title;

(2) Executive schedule positions within the Agency other than the Director, Deputy Director, General Counsel, and Inspector General, and positions in the grades of GS-16, GS-17, and GS-18, other than those transferred to the Agency under this Act shall be as authorized by law.

(3) Any Agency officer or employee who has been separated under paragraph (1) may seek or accept employment in the Government if declared eligible for such employment by the United States Civil Service Commission; and that commission may place such officer or employee in a position in the competitive civil service in the same manner as an employee who is transferred between two positions in the competitive service, but only if such Agency officer or employee has served with the Agency for at least one year continuously immediately preceding such separation.

#### PROCUREMENT AUTHORITY

Sec. 622. (a) The Agency is authorized to procure such property, supplies, services, equipment, and facilities as may be necessary to carry out its functions under this title.

(b) The provisions of chapter 137, relating to the procurement of property and services, and chapter 139, relating to the procurement of research and development services, of title 10, United States Code, shall apply to the procurement

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of property, services, and research and development services by the Agency in the same manner and to the same extent such chapters apply to the procurement of property, services, and research and development services by the agencies named in section 2303(a) of such title, except that the Director is authorized, with the approval of the Secretary of Defense and, in the case of any national intelligence activity, the Director of National Intelligence, to waive the application of any or all of the provisions of chapters 137 and 139 of such title when the Director deems such action necessary to the successful performance of any function of the Agency or to protect the security of activities of the Agency.

(c) The Agency is authorized, notwithstanding any other provision of law, to procure property, goods, or services in the name of the Department of Defense when public knowledge of the Agency's sponsorship of such procurement would inhibit or interfere with the secure conduct of an authorized Agency function. Any participation of the Department of Defense in Agency procurement may also be concealed, in accordance with section \_\_\_\_ of this Act but notwithstanding any other provision of law, when the Director finds such concealment necessary to protect the secure conduct of an authorized Agency function.

#### PRINTING AND BINDING

Sec. 623. The Director is authorized to operate a full scale printing plant, as defined by the Joint Committee on

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Printing of the Congress of the United States, for the production of cryptologic and cryptologic related materials, subject to the rules of the Joint Committee on Printing of the Congress.

#### EDUCATION AND TRAINING

Sec. 624. The Director is authorized to establish and insure compliance with standards for training necessary to accomplish the cryptologic missions of the Government and to arrange for, fund, or provide training as may be necessary to accomplish the lawful functions of the Agency. The provisions of chapter 41 of title 5, United States Code, shall be applicable in the conduct of such training, except that the Director is authorized to waive the application of any or all such provisions if the Director deems such action necessary because of the unique mission and function of the Agency.

#### AUTHORIZATIONS FOR APPROPRIATIONS AND EXPENDITURES

Sec. 625. (a) Notwithstanding any other provision of law, funds made available to the Agency by appropriation or otherwise may be expended for purposes necessary to carry out the lawful functions of the Agency. No appropriated funds may be expended for activities which have not been authorized by legislation enacted during the same or one of the two immediately preceding fiscal years, except that this limitation shall not apply to funds appropriated by any continuing resolution or to funds expended under the authority of sections 701-708 of title 31, United States Code.



to the Agency for the purpose of meeting confidential, emergency, or extraordinary expenses of the Agency, but any funds made available to the Agency by the Secretary of Defense for such a purpose may be made available only from funds appropriated to the Secretary of Defense for the specific purpose of meeting confidential, emergency, or extraordinary expenses.

(2) Any funds made available to the Agency by the Secretary of Defense for meeting confidential, emergency, and extraordinary expenses may be used only to meet the expenses specified by the Secretary of Defense. The expenditure of such funds shall be accounted for solely on the certificate of the Director and every such certificate shall be deemed a sufficient voucher for the amount certified therein, but such expenditures may be made only for activities authorized by this title or other law.

#### PART D

##### TRAVEL AND OTHER EXPENSES; SPECIAL FACILITIES; RETIREMENT SYSTEM

##### TRAVEL, RELATED EXPENSES, AND DEATH GRATUITIES FOR CERTAIN AGENCY PERSONNEL

Sec. 631. (a) As used in this section "employee" does not include, unless otherwise specifically indicated, any person working for the Agency under a contract or any person who when initially employed is a resident in or a citizen of a foreign country in which the station at which such person is to be assigned to duty is located.

(b) Under such regulations as the Director, in consultation with the Director or National Intelligence, may approve, the Agency may, with respect to employees assigned to duty stations outside the United States, provide allowances and other benefits in the same manner and under the same circumstances such allowances and other benefits are provided employees of the Foreign Service under title IX of the Foreign Service Act of 1946 (22 U.S.C. 1131-1158), and death gratuities in the same manner and under the same circumstances such gratuities are provided employees of the Foreign Service under section 14 of the Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956 (22 U.S.C. 2679a).

(c) (1) Whenever any provision of law relating to travel and related expenses or death gratuities of employees of the Foreign Service is enacted after the date of enactment of this Act, is not enacted as an amendment to one of the provisions referred to in subsection (b)(2) of this section, and the President determines that it would be appropriate for the purpose of maintaining conformity between provisions of law relating to travel and related expenses and death gratuities of the foreign Service and provisions of law relating to travel and related expenses and death gratuities of employees of the Agency, the President may, by executive order, extend in whole or in part to employees of the Agency the allowances and benefits applicable to employees of the Foreign Service by such provision of law.

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(2) An executive order issued pursuant to this subsection shall have the force and effect of law and may be given retro-active effect to a date not earlier than the effective date of the corresponding provisions of law relating to Foreign Service personnel. Any such order shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith --

(A) all provisions of law relating to travel, related expenses, and death gratuities of employees of the Agency enacted prior to the effective date of the provisions of such executive order, and

(B) any provision of any prior executive order issued under authority of this section.

(3) An executive order issued under the authority of this subsection may not become effective until the expiration of at least 60 days after the President submits the proposed order to those committees of the Senate and House of Representatives having jurisdiction over the subject matter of the order.

(d) Notwithstanding the provisions of subsections (b) and (c), and under such regulations as the Director, in consultation with the Director of National Intelligence, shall approve, the Agency may pay expenses, benefits, and allowances equivalent to those specifically authorized in subsections (b) and (c) in any case in which the Director

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determines that, for reasons of operational necessity or security, the means or method of paying expenses, benefits, and allowances authorized in such subsections should not be utilized.

COMMISSARY AND MESS SERVICES  
AND RECREATION FACILITIES

Sec. 632. (a) The Director is authorized to establish and maintain emergency commissary and mess services in such places outside the United States and in Alaska where, in the Director's judgment, such services are necessary to ensure the effective and efficient performance of the duties and responsibilities of the Agency, but only if such services are not otherwise available from other departments and agencies of the Government. An amount equal to the amount expended for any such services shall be returned to the Treasury as miscellaneous receipts.

(b) The Director is authorized to assist in the establishment, maintenance, and operation, by officers and employees of the Agency, of nonGovernment operated commissary and mess services and recreation facilities at certain posts abroad, including the furnishing of space, utilities, and properties owned or leased by the United States for use by the Agency. Commissary and mess services and recreation facilities established pursuant to this subsection shall be made available, insofar as practicable, to officers and employees of other Government agencies, employees of Government contractors,

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and the employees are located outside the United States or in Alaska. Such services and facilities shall not be established in localities where another department or agency operates similar services or facilities unless the Director determines that such additional services or facilities are necessary.

(c) Notwithstanding any other provision of law, charges at any post outside the United States or in Alaska by a commissary or mess service or recreation facility authorized or assisted under this section shall be at the same rate for all civilian and military personnel of the Government serviced thereby, and all charges for supplies furnished to such a facility by any department or agency shall be at the same rate as that charged by the furnishing department or agency to its civilian or military commissary or mess services or recreation facilities.

#### RETIREMENT SYSTEM

Sec. 633. Employees of the Agency shall participate in the regular Federal Civil Service Retirement System provided for under subchapter III of chapter 83 of title 5, United States Code, except that title 5 of the United States Code is amended as follows to provide for the participation of certain Agency employees in such system under special conditions.

(a) Section 8334 of title 5, United States Code, is amended by adding at the end thereof the following:

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"(i) The National Security Agency will annually reimburse the fund for additional expenditures incurred as a result of retirement of employees under section 8336(i) of this title."

(b) Section 8336 of title 5, United States Code, is amended by adding the following new subsection (h) and re-numbering present subsection (h) as subsection (i):

"(h) An employee of the National Security Agency who has completed 15 years of service outside the United States, or in training therefor, in duties determined by the Director, National Security Agency to be either hazardous to life or health or so specialized because of security requirements as to be clearly distinguishable from normal government employment is entitled to an annuity after becoming 50 years of age and completing 20 years of service."

(c) Section 8339(d) of title 5, United States Code, is amended to read as follows:

"(d) The annuity of an employee retiring under section 8335(g) or 8336(h) of this title is --

"(A) 2-1/2 percent of his average pay multiplied by so much of his total service as does not exceed 20 years; plus,

"(B) 2 percent of his average pay multiplied by so much of his total service as exceeds 20 years."

(d) Section 8347(d) of title 5, United States Code, is amended to read as follows:

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"(d) An administrative action or order affecting the rights or interests of an individual or of the United States under this subchapter may be appealed to the Commission under procedures prescribed by the Commission, except that any action affecting an employee who retires under section 8336(i) of this title may be appealed only to the Secretary of Defense, whose decision is final and conclusive and is not subject to review."

#### PART E

SPECIAL DELEGATION OF AUTHORITY;  
PRESERVATION OF CERTAIN AUTHORITY AND RESPONSIBILITY

SPECIAL DELEGATION AUTHORITY;  
MISCELLANEOUS PRESERVATION OF AUTHORITY AND RESPONSIBILITY

Sec. 641. (a) In exercising control over all signals intelligence activities of the United States, the Director shall make special provision for the delegation of operational control of specified signals intelligence activities required to provide signals intelligence direct support to military commanders or the heads of other departments and agencies of the Government. Such special provision shall be made for such period and for such activities as the Director determines to be appropriate.

(b) Nothing in this title shall contravene the responsibilities of any department or agency for the final evaluation of signals intelligence, the synthesis of such intelligence with intelligence from other sources, or the dissemination of finished intelligence to users in accordance with prescribed security procedures.

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functions of any department or agency to organize and conduct individual communications security activities other than the development of cryptographic systems, devices, equipment, and procedures. Each department and agency concerned shall be responsible for implementing all measures required to assure communications security in accordance with security rules, regulations, procedures, standards, and requirements prescribed by the Director under the authority of section 613(b) of this Act.

(d) Nothing in this title shall contravene the authority of the Central Intelligence Agency to conduct as approved by the Director of National Intelligence after review by the Director, clandestine signals intelligence operations in support of clandestine activities; to conduct, in coordination with the Director, clandestine operations designed to achieve signals intelligence objectives; and to prescribe unique communications security methods and procedures, after review by the Director, in support of clandestine activities.

(e) All elements of the United States signals intelligence system shall conduct signals intelligence activities in response to operational tasks assigned by the Director and in accordance with directives issued by the Director. Except as authorized in subsection (a), no organization outside the United States signals intelligence system may engage in signals intelligence activities unless specifically authorized to do so by the National Security Council.



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(f) Nothing in this title shall be construed as amending or superseding the provisions of the Act entitled "An Act to provide certain administrative authorities for the National Security Agency, and for other purposes", approved May 29, 1959 (73 Stat. 63; 50 U.S.C. 402 note).

(g) The provisions of sections 2 and 3 of the Act entitled "An Act to fix the responsibilities of disbursing and certifying officers, and for other purposes", approved December 29, 1941 (55 Stat. 875; 31 U.S.C. 82), shall apply to certifications for payments and to payments made by or on behalf of the National Security Agency by certifying officers and employees and by disbursing officers and employees under the jurisdiction of any military departments, notwithstanding the provisions of section 4 of such Act (31 U.S.C. 82e).

(h) Clause (1) of section 552a(j) of title 5, United States Code, is amended by inserting "or the National Security Agency" after "Central Intelligence Agency".

#### PART F

#### TRANSFER OF PERSONNEL, PROPERTY, AND FUNCTIONS

Sec. 651. (a) All positions established in and personnel employed by the National Security Agency, as in effect on the day before the effective date of this title, and all obligations, contracts, properties, and records employed, held, or used primarily in connection with any function to be performed by the Agency under this title, are transferred to the Director.

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(b) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges which have become effective in the exercise of functions transferred under this title and which are in effect on the day before the effective date of this title, shall continue in effect until modified, terminated, superseded, set aside, or repealed by the Director, or other appropriate Agency officials, by any court of competent jurisdiction, or by operation of law.

(c) The provisions of this title shall not affect any proceedings pending before the National Security Agency as in effect prior to the effective date of this title.

(d) No suit, action, or other proceeding begun by or against any officer in that officer's official capacity in the National Security Agency, as in effect prior to the effective date of this title, shall abate by reason of enactment of this title.

(e) With respect to any function transferred by this title and exercised after the effective date of this title, reference in any other Federal law to any department, agency, office, or part thereof shall be deemed to refer to the department, agency, or office in which such function is vested pursuant to this title.

TITLE VII--MISCELLANEOUS AMENDMENTS AND  
EFFECTIVE DATE

AMENDMENT TO THE NATIONAL SECURITY ACT OF 1947

Sec. 701. The third paragraph of section 101(a) of the National Security Act of 1947 (50 U.S.C. 402(a)) is amended by deleting the period at the end thereof, substituting a semicolon, and adding the following:

"and to provide guidance and direction to the conduct of all national intelligence, counterintelligence, and counterterrorism activities of the United States

AMENDMENTS TO TITLE 5, UNITED STATES CODE

Sec. 702. (a) Section 5313 of such title is amended by striking out

"(15) Director of Central Intelligence." and inserting in lieu thereof

"(15) Director of National Intelligence."

(b) Section 5314 of such title is amended by striking out

"(35) Deputy Director of Central Intelligence." and inserting in lieu thereof

"(35) Deputy Director of National Intelligence."

(c) Section 5315 of such title is amended by adding at the end thereof the following:

"(122) Assistant Directors of National Intelligence."

EFFECTIVE DATE

Sec. 703. This Act shall become effective on the first day of the sixth calendar month following the month in which it is enacted.